

## **806 KAR 17:130. Twenty-four (24) Hour Pilot Insurance Program.**

RELATES TO: KRS 216.2960, Chapter 342

STATUTORY AUTHORITY: KRS 216.2960

NECESSITY, FUNCTION, AND CONFORMITY: KRS Chapters 216 and 342 require the promulgation of administrative regulations relating to the Twenty-four (24) Hour Pilot Insurance Program to cover general health care for purposes of general health insurance and Workers' Compensation. This administrative regulation applies to all employers, insurers, and health care providers that apply to combine group health insurance with workers' compensation under a twenty-four (24) hour pilot program.

Section 1. Definitions. (1) "Twenty-four (24) hour pilot insurance program" or "pilot insurance program" means a combined program including health coverage plus the medical portion of worker's coverage, as required by KRS 342.020 providing twenty-four (24) hour coverage and approved by the Office of Insurance.

(2) "Compensable condition" means an injury or disease for which the employer is liable for medical benefits under KRS 342.020.

(3) "Group health plan" means an insurance contract under which medical services for nonwork related conditions are extended to the employees of an employer subject to KRS Chapter 342.

(4) "Pilot insurance program administrator" means the entity which provides the day-to-day administration of a pilot insurance program.

Section 2. Prohibitions. (1) An insurer shall not issue an insurance contract providing health care benefits for both compensable and noncompensable conditions unless the contract qualifies as a twenty-four (24) hour pilot insurance program under this administrative regulation.

(2) Liabilities or expenses shall not be transferred between or among insurers whose coverages have been combined into a twenty-four (24) hour pilot insurance program.

Section 3. Pilot Insurance Programs in General. (1) A pilot insurance program shall deliver twenty-four (24) hour coverage through one (1) or more insurers as defined in KRS 304.17A-010(12). Each insurer shall provide only the type of coverage it is authorized by law to provide. Each program shall be designed and operated to eliminate, or minimize, differences in the delivery and administration of medical services for compensable and noncompensable conditions.

(2) A pilot insurance program may provide twenty-four (24) hour coverage to employees of one (1) or more employers only to the extent each insurer may lawfully provide coverage for the employees of one (1) or more employers. The program may cover all or a portion of the subject workforce of a participating employer. If only a portion of the workforce is covered by a pilot insurance program, compensable medical coverage for the remainder shall be governed by KRS 342.020 and noncompensable medical coverage for the remainder shall be governed by KRS Chapter 304.

Section 4. Application Process. The pilot insurance program shall apply for authorization to operate the program by submitting an application in quadruplicate to the Office of Insurance on a prescribed form. The pilot insurance program shall provide the following information:

(1) The name, address, and telephone numbers of the pilot insurance program administrator and a description of the administrator's role in funding, insuring, and operating the pilot insurance program;

(2) The name, address, and telephone numbers of each sponsor of the pilot insurance program and a description of each sponsor's role in funding, insuring, and operating the pilot insurance program. Sponsors shall include the employer or employers' association, workers' compensation insurer,

er and health insurer for the pilot insurance program;

(3) A full description of how the pilot insurance program will operate, including participating and nonparticipating employees, participating and nonparticipating work sites, plan benefits, coverage limitations, premiums, provider networks, managed care provisions and administrative procedures of the program;

(4) A listing of participating providers by service category;

(5) A draft of all materials describing the pilot insurance program that are intended for distribution to employees and their families;

(6) A description of how the pilot insurance program is expected to benefit each of the following: employees, employers, medical providers and insurers;

(7) A description of the financial and organizational resources supporting the pilot insurance program;

(8) A description of the methodology and identification of the personnel that the pilot insurance program administrator will utilize to produce an analysis comparing the pilot insurance program results with predicted results under traditional workers' compensation insurance, with and without managed care in the following areas:

(a) Number of employees treated by the pilot insurance program.

(b) Number of work-related injuries or diseases by ICD-9 code treated under the Pilot Insurance Program and during the twelve (12) month period preceding the adoption of the plan.

(c) Breakdown by ICD-9 codes of injuries and diseases treated.

(d) Total medical costs for a noncompensable condition for the first twelve (12) months of the pilot insurance program and for the twelve (12) month period preceding adoption of the pilot insurance program.

(e) Average medical cost per injured employee by type of injury.

(f) Average medical cost per diseased employee by type of disease.

(g) Breakdown of medical cost elements as to type of physician utilized, hospital costs, drug costs, and other costs during the year preceding adoption of the plan and for one (1) year afterwards.

(h) Number of days by type of injury and disease for which an employee has been released from work during the year preceding adoption of the plan and for one (1) year afterwards.

(i) In lieu of the above, a methodology to compare each employer's preplan expenditure for both compensable and noncompensable medical to those expenditures made after adoption of the plan.

(9) If the health services contractor has not been approved to operate a managed care plan pursuant to 803 KAR 25:110, a variance shall be requested and the program administrator shall provide a description of the means by which the following will be achieved for compensable conditions:

(a) Reasonable provider choice;

(b) Quality care;

(c) Availability of emergency care;

(d) Strong case management; and

(e) Utilization review.

(10) The program administrator shall list the terms and conditions of network coverage and a listing of all participating providers by service category and shall fully disclose the same in the pilot insurance program application and to all program members.

**Section 5. Authorization of Pilot Plans.** (1) The Executive Director of Workers' Claims and the Office of Insurance shall authorize twenty-four (24) hour pilot insurance programs. Applications will be evaluated in order of their receipt. Within thirty (30) days of receiving a complete application, the Office of Insurance shall provide a written notice of findings upon review to the pilot insurance program administrators. That notice shall:

(a) Specify approval or rejection of the application and the grounds for that decision; or  
(b) Specify additional information needed to clarify the application and a deadline for submitting that information. If additional information is not provided by the deadline, the application shall be rejected. Within thirty (30) days of receiving timely additional information, the Executive Director of Workers' Claims and the Office of Insurance shall provide a written notice of findings, as described in paragraph (a) of this subsection.

(2) In evaluating and authorizing pilot insurance programs, the following criteria shall be considered:

(a) The extent to which the pilot insurance programs archives a diversity of participants, program designs and geographic regions;

(b) The potential of the pilot insurance program to mutually benefit workers', employers, medical providers and insurers;

(c) The adequacy of the financial and organizational resources of the pilot insurance program administrator and sponsors;

(d) The ability of the pilot insurance program administrator to meet the evaluation requirements described in KRS 342.352 and 216.2960; and

(e) The availability of resources to monitor the pilot insurance program.

Section 6. Revocation of Pilot Insurance Program Authority. (1) The Office of Insurance and the Commissioner of Workers' Claims may revoke the authority of a pilot insurance program at any time if, one (1) or more of the following, or similar, conditions exist:

(a) The pilot insurance program or the pilot insurance program administrator does not comply with the provisions of KRS Chapter 216 or 304;

(b) A participating insurer becomes subject to suspension or revocation of its certificate of authority;

(c) The pilot insurance program is deficient in its management or claims adjustment practices, or the health care services contractor fails to observe standards of provider choice, quality care, utilization review or grievance resolution;

(d) A breach of the pilot insurance program agreement occurs or there has been a misrepresentation of a material fact in the pilot insurance program application or on any subsequent report required of the pilot insurance program administrator or health care services contractor or insurer; or

(e) The successful operation of the pilot insurance program is jeopardized by a weakness in the financial or operations status of the pilot insurance program administrator, program sponsor, or health care services contractor, or insurer.

(2) The Office of Insurance and the Commissioner of Workers' Claims shall provide written notice of an intent to revoke to the pilot insurance program administrator setting forth the basis of the revocation and granting the pilot insurance program administrator fifteen (15) days from the date of the notice to make a written response.

(3) After reviewing the response, the Office of Insurance and the Commissioner of Workers' Claims may issue an order directing the pilot insurance program administrator, the health care services contractor, or the insurer to remedy specific defects; may revoke the authorization to operate a pilot program; or in the discretion of the Commissioner of Workers' Claims and the Office of Insurance may set a time and place for a hearing.

Section 7. Dispute Resolution. (1) Each twenty-four (24) hour pilot insurance program shall contain an expeditious, informal grievance procedure to resolve disputes by employees and providers relative to the rendition of medical services. A detailed description of the employee grievance procedure shall be included in all provider contracts or appended materials.

(2) The grievance procedure shall meet the following requirements:

(a) A grievance is made when a written complaint or written request is delivered by the employee or provider to the twenty-four (24) hour pilot insurance program administrator, health care services contractor, or insurer setting forth the nature of the complaint and remedial action requested.

(b) The employee or provider shall file a grievance within thirty (30) days of the occurrence of the event giving rise to the dispute.

(c) The twenty-four (24) hour pilot insurance program administrator, health care service contractor, or insurer shall render a written decision upon grievance within thirty (30) days of the filing of the grievance.

(d) The twenty-four (24) hour pilot insurance programs may provide for alternate means of dispute resolution including arbitration and mediation. In that event, final resolution of a grievance shall not be subject to the time constraints set forth in paragraph (c) of this subsection. In all cases, resolution mechanisms shall be expeditious and where treatment matters are at issue reflect the need for resolution.

(3) The twenty-four (24) hour pilot insurance shall maintain a record for a minimum of two (2) years of each formal grievance to include the following:

(a) A description of the grievance, the employee's or provider's name and address, names and addresses of the health care service providers relevant to the grievance, and the health care contractor's name and address;

(b) A description of the administrator's findings, conclusions, and deposition of the grievance; and

(c) Number of grievances filed and summary of action taken.

(4) Any employee or provider dissatisfied with the pilot insurance program administrator's, health care service contractor's, or insurer's resolution of a grievance relating to a purportedly compensable condition, may apply for review by a workers' claims administrative law judge by filing a request for resolution within thirty (30) days of the date of the final decision. Upon review by a workers' claims administrative law judge, the movant shall be required to prove that the administrator's final decision is unreasonable or otherwise fails to conform with KRS Chapter 342 or 216.

Section 8. Provider Networks. A pilot insurance program may deliver medical services through a limited network of participating health care providers as follows:

(1) Noncompensable conditions. Coverage may be restricted in accordance with the provisions of the group health care portion of the program; and

(2) Compensable conditions. Coverage may be restricted in accordance with the provisions of a managed care plan previously approved by the Executive Director of Workers' Claims pursuant to 803 KAR 25:110 or pursuant to a variance approved in the application for a twenty-four (24) hour pilot insurance program.

Section 9. Pilot Plan Coverage. (1) Medical services.

(a) Coverage of compensable injuries shall comply with all provisions of KRS Chapter 342. It is the responsibility of the pilot insurance program administrator to ensure that all required medical services are provided for every compensable condition;

(b) Coverage of noncompensable conditions shall comply with the terms of the group health plan portion of the pilot insurance program; and

(c) Nothing in these rules shall be construed to establish concurrent or double coverage of the same injury or illness under paragraphs (a) and (b) of this subsection.

(2) Coordinator of medical coverage. Coverage of medical services that are included in the group health portion of a pilot insurance program, but are excluded from coverage under KRS Chapter 342, shall not be denied to pilot insurance program members solely because the plan member claims a compensable injury.

(3) Copayments and deductibles.

(a) Coverage of compensable conditions shall not require any copayment or deductible to be paid by pilot insurance program members. Coverage of noncompensable conditions may require copayments or deductibles to be paid by members;

(b) If any copayment or deductible is paid by a pilot insurance program member for medical services that are later determined to be compensable, the amounts paid shall be refunded within thirty (30) days of the determination.

(4) Effective date of coverage. Coverage under a pilot insurance program shall begin on the effective date specified in the pilot insurance program agreement. Workers' compensation coverage shall not be interrupted because of the initiation of a pilot insurance program. Coverage under a pilot insurance program shall not be delayed for any injured worker on account of an existing compensable condition. Ongoing medical services for an existing compensable condition shall comply with the provisions of KRS Chapter 342.

(5) Payments of premiums.

(a) Premiums for the group health plan portion of a pilot insurance program plan may be shared by the employer and the covered member in accordance with the terms of that portion of the pilot insurance program. Premiums for the workers' compensation portion shall be fully paid by the employer, as required under KRS Chapter 342.

(b) In integrated and single policy plans, a delineation of the premiums attributable to the two (2) portions of coverage must be maintained by the pilot insurance program administrator.

Section 10. Claims Administration. Nothing in the operation of a pilot insurance program shall hinder workers from submitting claims or encourage workers to seek group health plan coverage for compensable conditions in lieu of workers' compensation coverage.

Section 11. Examination of Records. The Office of Insurance and the Executive Director of Workers' Claims may make or cause to be made examinations of the books and records of the administrator of a pilot insurance program to ensure compliance with these rules and the pilot insurance program agreement.

Section 12. Statistical Reporting. (1) The workers' compensation portion of a pilot insurance program. The administrator and sponsors of a pilot insurance program shall provide the reporting required under KRS Chapter 342 for the workers' compensation portion of a pilot insurance program.

(2) The group health portion of a pilot insurance program. The administrators of a pilot insurance program shall report the experience of the group health portion of the pilot insurance program in accordance with the administrative regulations of the Office of Insurance. (23 Ky.R. 1825; eff. 12-11-96; TAm eff. 8-9-2007.)